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Financial Factors in Selecting Plan Investments

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Submitter Information

Name: Lila Holzman

General Comment

July 29, 2020
Office of Regulations and Interpretations
Employee Benefits Security Administration
Room N-5655 U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

RE: Proposed rule on Financial Factors in Selecting Plan Investments (RIN 1210-AB95)

Dear Director Canary:

I write to provide comments in response to the Department of Labor's proposed rule, "Financial Factors in Selecting Plan Investments" (RIN 1210-AB95) (the "Proposal").

I work at As You Sow, an organization that has helped countless companies recognize and address material ESG risks. I came to As You Sow after graduating with an MBA from The Wharton School, University of Pennsylvania. My focus at Wharton was on Environmental & Risk Management. During my studies and the work I've done since, it has become increasingly clear that ESG factors must be considered by investment managers.

The Department of Labor fails to articulate a rational connection between the relevant facts and the proposed rule. The Proposal reveals a fundamental misunderstanding of how professional

investment managers use environmental, social and governance (ESG) criteria as an additional level of due diligence and analysis in the portfolio construction process. Investment managers increasingly analyze ESG factors precisely because they view these factors as material to financial performance.

The Proposal mischaracterizes ESG integration and fails to distinguish between ESG integration and economically targeted investing. This is likely to lead to confusion for ERISA fiduciaries and costs to plan savers. If the Proposal is finalized in its current form, I am concerned that fiduciaries will struggle to fulfill their obligations to integrate all financially material risk factors while also trying to respond to the language in the Proposal that appears to be aimed at preventing fiduciaries from taking account of these same risks.

Institutional investors have a duty to act in the best, long-term interests of their beneficiaries. In this fiduciary role, I believe that ESG factors may be financially material, and integrating ESG factors is core to investment decision-making. If the Proposed Rule goes into effect, it will undermine fiduciaries' ability to act in the long-term best interest of their beneficiaries. As such, I urge you to allow the existing guidance to remain in effect and not move forward with a final rule.

The Proposal is likely to have the perverse effect of dissuading fiduciaries, even against their better judgment, from offering options for their plans that consider ESG factors as part of the evaluation of material financial criteria. As a result, it will unfairly, and harmfully, limit plan diversification and perhaps compel plan participants to choose options that are either more risky or less profitable.

I respectfully request that the Proposal be withdrawn. Thank you for your consideration of these comments.

Sincerely,
Lila Holzman
Energy Program Manager, As You Sow